

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

BENJAMIN C. CHILDRESS, ET AL.,  
Plaintiffs,

v.

AIR PRODUCTS AND CHEMICALS, INC.,  
Defendant.

**NOTICE OF REMOVAL**

Civil Action No.: 6:09-486-HFF

TO: THE HONORABLE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
SOUTH CAROLINA, GREENVILLE DIVISION:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Air Products and Chemicals, Inc. ("Air Products"), gives notice of removal of the above-captioned action from the Greenville County Court of Common Pleas, South Carolina, to the United States District Court for the District of South Carolina. In support of its Notice of Removal, Air Products would respectfully allege and show unto the Court:

1. Plaintiffs commenced the above-captioned action against Air Products by filing a summons and a complaint in the Greenville County Court of Common Pleas, South Carolina, No. 2009-CP-23-0628 (the "State Court Action"). Copies of the Summons and the Complaint are attached hereto collectively as Exhibit 1.

2. Air Products removes the State Court Action to the United States District Court for the District of South Carolina on the basis of federal question jurisdiction.

3. Air Products first received notice of the State Court Action when the summons and complaint were served on Air Products on or about January 27, 2009. This Notice of

Removal is timely filed with this Court pursuant to 28 U.S.C. § 1446(b) because thirty days have not expired since Air Products first received notice of this action.

4. In the Complaint, Plaintiffs allege that Air Products failed to pay all wages due under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (“FLSA”) to Plaintiffs and other allegedly similarly situated current and former employees of Air Products.

5. Air Products seeks removal of this action pursuant to 28 U.S.C. § 1441(b) on the ground that the State Court Action is a civil action over which this Court has original federal question jurisdiction under 28 U.S.C. § 1331 because Plaintiffs’ Complaint purports to assert a claim under the FLSA.

6. Venue is proper in the District of South Carolina. Pursuant to 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . to the district court of the United States for the district and division embracing the place where such action is pending.” Here, the Greenville County Court of Common Pleas, Greenville, South Carolina, is within the District of this Court.

7. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to counsel for Plaintiff, and a copy of the Notice of Removal will be filed with Clerk of the Greenville County Court of Common Pleas, Greenville, South Carolina.

WHEREFORE, Air Products respectfully requests that this action be removed from the Greenville County Court of Common Pleas, Greenville, South Carolina, to the United States District Court for the District of South Carolina.

/s/Frank H. Gibbes, III

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*Air Products and Chemicals, Inc.*

February 26, 2009  
Spartanburg, South Carolina